

## ROUTING AND TRANSMITTAL SLIP

Date  
31 March 1982

TO: (Name, office symbol, room number, building, Agency/Post)		Initials	Date
1. Director, Information Services			
2.			
3.			
4.			
5.			
Action	File	Note and Return	
Approval	For Clearance	Per Conversation	
As Requested	For Correction	Prepare Reply	
Circulate	For Your Information	See Me	
Comment	Investigate	Signature	
Coordination	Justify		

## REMARKS

Please review the attached and provide me with any comments you may have. I realize this is another short deadline, and would appreciate receiving your comments by close of business Tuesday, 6 April.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions.

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
	Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

\* GPO : 1981 O - 341-529 (120)

## ROUTING AND TRANSMITTAL SLIP

Date  
31 March 1982

TO: (Name, office symbol, room number, building, Agency/Post)		Initials	Date
1. Director of Security			
2.			
3.			
4.			
5.			
Action	File	Note and Return	
Approval	For Clearance	Per Conversation	
As Requested	For Correction	Prepare Reply	
Circulate	For Your Information	See Me	
Comment	Investigate	Signature	
Coordination	Justify		

## REMARKS

Please review the attached and provide me with any comments you may have. I realize this is another short deadline, and would appreciate receiving your comments by close of business Tuesday, 6 April.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions.

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
	Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

\* GPO : 1981 O - 341-529 (120)

OGC 82-03051  
29 March 1982DD/A Registry  
82-0833

25X1

MEMORANDUM FOR: See Distribution

FROM:

Assistant General Counsel

25X1

SUBJECT: Request for Comments on OMB Sponsored Draft  
Legislation: "Confidentiality of Federal  
Statistical Records Act"

1. This Office has received from the Office of Management and Budget (OMB) a request for comments on the "Confidentiality of Federal Statistical Records Act" (copy attached). The purpose of this memorandum is to request your comments on the legislation by 7 April 1982 so that we may prepare the Agency's comments.

2. This Act was drafted by OMB in response to two needs identified as a result of studies undertaken in this area over the past several years. The first is the need to extend to persons participating in statistical surveys by federal agencies an assurance that the information they provide will be protected from any disclosure. This sort of protection is currently extended to information compiled by the Census Bureau but not to information supplied to other federal statistical agencies such as the Bureau of Labor Statistics (BLS) in the Department of Labor. The second need is the need to permit federal statistical agencies to share individually identifiable statistical information among themselves for statistical purposes in order to reduce costs, achieve efficiency and reduce the burden on the public posed by duplicative surveys. Under current law, several such agencies are barred by statute from sharing individually identifiable statistical information even though it would be held confidential and used only for statistical purposes.

3. To meet these needs, the legislation creates a system to provide absolute confidentiality for the individually identifiable portions of statistical records and to provide that certain statistical agencies can share such information among themselves for statistical purposes.

4. The key definition in the Act is "protected statistical file" or PSF. As defined by Section 104(g) of the Act, this is a "statistical file designated for protection under the provisions of this Act." This definition may be alternatively stated as follows by linking together all of the key definitional elements so as to focus on the concept as an entirety: "a collection or grouping of records about a person obtained from any source in the possession of a federal agency created or maintained and used exclusively ...(with) an objective to develop or report aggregate or anonymous data in such a way that the identity of specific persons is not discernible and is not material to the intended uses of the data." Of significance to the Agency is the fact that the definition of "person," in Section 104(f), is not limited to the "United States" person.

5. It is the PSF which is afforded the protections of confidentiality: Sections 108 (general confidentiality); 109 (limited disclosures); 111 (immunity from legal process, including FOIA); and, 113 (criminal and civil penalties for unauthorized disclosure).

6. Certain federal agencies, such as the BLS, are designated by Section 107 as "protected statistical centers" (PSC) and the President can designate others. Once designated as a PSC, all of an agency's statistical files become PSF's. Any agency, though, can also request the "Chief Statistician" (a position created by section 105) to designate one or more of its statistical files as a PSF, provided that file meets the definition of PSF and the other conditions imposed by Section 106 (a) are met.

7. Under Section 110, PSC's may seek individually identifiable statistical information from a PSF or from another PSC. If the request is denied, the denial may be appealed to the Chief Statistician. One basis for affirming the denial is on the grounds of national security. If an agency is not a PSC it would be generally barred from seeking such information by Sections 108 and 109.

8. Finally, under Section 112, any information collected by an agency in a file other than a PSF may be disclosed to a PSC for a statistical purpose.

9. My initial review leads me to raise two questions with respect to the effect this legislation could have on the Agency. The first is whether this Act will prevent the Agency from obtaining individually identifiable statistical information from other government agencies which it may now obtain and the second is whether this Act will compel the Agency to disclose information to other government agencies which it does not wish to disclose.

10. In regard to the first question, I direct your attention to the Section 109(e)(1)(B) which provides that information in PSF's can only be disclosed to other government agencies in limited circumstances and only for statistical purposes. As currently drafted it does not envision an ability for the Agency to obtain such information for its needs. Thus, this provision could operate to bar the Agency from obtaining individually identifiable statistical information from a PSF or PSC.

11. In regard to the second, I direct your attention to Section 112 which could be read as loosening any strictures the Agency may have on providing its information to statistical agencies and to section 110(f) which puts the "Chief Statistician" in the position of determining whether or not information is to be released from a PSF to a PSC, even though under Section 110(f)(6) he may affirm a denial on national security grounds.

12. Accordingly, I ask that you review this Act, directing your attention at the very least to the two questions above. In your review, you should obviously keep in mind any Agency files which could be characterized as PSF's, any files in other government agencies from which the Agency obtains individually identifiable statistical information and which could be characterized as PSF's or the holding agency as a PSC and what effect this might have on any operation involving such files. Of course you should feel free to make additional comments.

13. OMB has requested the Agency's comments by 2 April, 1982. I have already contacted OMB by phone and, based on the two questions I raised above, indicated that the Agency may object to this legislation in its current form and that we will be providing detailed comments regarding our objections as soon as possible. I ask that you provide me with your comments by April 7, 1982 so that we can prepare a more formal response to OMB.

25X1

#### Attachments

#### Distribution

STAT 1 - [redacted] OGC)  
 1 - [redacted] (OGC)  
 1 - (C/IMS/DDO)  
 STAT 1 - [redacted] (Deputy Director of Central Reference, DDI)  
 1 - [redacted] (Special Assistant for Operations, DDS&T)  
 ① - [redacted] (Executive Officer to the DDA)  
 1 - [redacted] (O/Compt)